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EXAMINER

BRUENJES, CHRISTOPHER P

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/727,334

Applicant(s)

SAITO ET AL.

Examiner

Christopher P. Bruenjes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20040715</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claims 1-3, 5-7, and 9-12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 6,417,275 in view of Kawamura et al (US 2002/0009563 A1).

The claims of '275 teach a propylene-based copolymer composition comprising 10 to 60% by weight of a polymer component (A); and 40 to 90% by weight of a copolymer component (B), wherein said polymer composition is obtained by a two-stage polymerization process comprising a first producing the component (A) by polymerization and then producing the component

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(B) by polymerization, wherein said polymer component (A) comprises a polypropylene homopolymers and has isotactic index of not less than 90%, and said copolymer (B) comprises propylene and other α -olefin having not more than 8 carbon atoms, and contains propylene and ethylene as essential components, said copolymer component containing cold xylene insolubles in an amount of from more than 20 to 70% by weight based on the weight of whole polymers, and cold xylene solubles in an amount of 10 to 60% by weight based on the weight of whole polymers, and said cold xylene solubles containing an α -olefin other than propylene in an amount of less than 20% by weight (claim 1). The propylene-based resin composition satisfies the requirements (i), (ii), and (iii) as taught in claim 3, and the propylene-based resin composition inherently has a tensile stress at a yielding point not more than 15 MPa, because the composition is made from the same materials by the same process and the same composition must possess the same properties. The propylene-based resin composition inherently satisfies the requirement that a difference between a heat-sealing temperature providing a heat-seal strength of 0.2 kgf/15mm and a heat-sealing temperature providing a heat-seal strength of 2.0 kgf/15mm is not less than 20°C, and exhibits a heat-seal strength of not less than 3 kgf/15mm, since the composition is the same and is

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made by the same process as the claimed composition and the same composition must possess the same properties.

The claims of '275 fail to teach using the composition forming the heat-sealing portion of a multi-chamber container. However, Kawamura teaches multi-chamber containers are formed with a peripheral edge of permanent heat-seals and partition portions formed of easily peelable heat seals (see abstract). Kawamura teaches that the polymer composition forming the layer that will be heat-sealed to form the peripheral seal and partitions is a homopolymer such as the component (A) of the claims of '275, and a propylene/ α -olefin copolymer such as the component (B) of the claims of '275 (see abstract and paragraphs 15, 18 and 19). Kawamura also teaches that the polymer composition must have excellent heat resistance, flexibility, and transparency, and a broad temperature range for low temperature welding, which are all properties of the composition of claims '275. Therefore, it would have been obvious to one having ordinary skill in the art at the time Applicant's invention was made to use the claimed composition of claims '275 as the propylene-based resin composition in the multi-chamber container of Kawamura et al because it fulfills all of the desired properties required for a heat-sealing composition used in Kawamura et al, as taught by Kawamura et al.

Claim Objections

2. Applicant is advised that should claim 3 be found allowable, claim 6 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 6, and 10, the limitation "and containing a room-temperature xylene-insoluble..." proceeding to the end of the claim, renders the claim vague and indefinite.

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First, it is not understood if the limitation is referring to other components in the composition in addition to (A) and (B) or if it is further defining components (A) and (B). Also, if the limitation is further defining components (A) and (B), then it is not understood if the limitation is referring to the entire composition or only component (B). Clarification is required.

Regarding claim 4, it is not understood how claim 4 narrows the limitations of claim 1, because it is not understood where the limitations of claim 1 fit in the dependent claim. It appears that the propylene-based resin composition claimed in claim 4, is probably meant to refer to the propylene-based resin composition of claim 1. Therefore, it is suggested that claim 4 be written in the same format as claims 8 and 13 having "the propylene-based resin composition" in place of "a propylene-based resin composition."

Regarding claims 5 and 11, the limitation "in the whole polymers as a sum of the components (A) and (B)" renders the claim vague and indefinite because there is no antecedent basis for "the components (A) and (B)".

Regarding claim 9, the limitation "and exhibiting a heat-seal strength of not less than 3kgf/15mm" renders the claim vague and indefinite. It is not understood to what the

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limitation is referring. First, is this a limitation on the strongest heat-seal strength the film is capable of having or the heat-seal strength at a certain portion of the heat-sealed portion of the chamber. According to the specification, the bag has different portions of the bag heat-sealed with different heat-seal strengths. For instance is the peripheral edge not less than 3 kgf/15mm or the weak sealed portion. Clarification is required.

Claims 2-3, 7-8, and 12-13 are rejected as being dependent on rejected claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 9 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Kawamura et al (US 2002/0009563 A1).

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Regarding claim 9, Kawamura et al anticipate a multi-chamber container comprising a resin film or sheet formed into a bag shape by heat-sealing and having a partition portion formed therein (p.3, paragraph 32). The multi-chamber container has a heat-sealed portion comprising a propylene-based resin composition (see abstract) satisfying such a requirement that a difference between a heat-sealing temperature providing a heat-seal strength of 0.2 kgf/15mm and a heat-sealing temperature providing a heat-seal strength of 2.0 kgf/15mm is not less than 20°C, and exhibits a heat-seal strength of not less than 3kgf/15mm (p3, paragraph 33 and 34). Regarding claim 12, the resin film constitutes a partition portion that is peelable off from each other (see abstract).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. Claims 1-3, 5-7, and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawamura et al (US 2002/0009563) in view of Takayanagi et al (US 2001/0034416).

Kawamura et al teach a multi-chamber container comprising a resin film or sheet formed into a bag shape by heat-sealing and having a partition formed therein (p.3, paragraph 32). The multi-chamber container includes a heat-sealed portion comprising a propylene-based resin composition (see abstract). The composition includes component (C) (representing the component (A) of the instant invention), and component (A) (representing the component (B) of the instant invention). The composition is formed by a second-stage polymerization because the composition is a mixture, of the two components that have each been polymerized. Component (C) is present in the composition between 15 and 85% by weight and component (A) is

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present in the composition between 15 and 85% by weight, based on a total weight of the components (p.2, paragraph 24).

Component (C) is a homopolymer of propylene (see abstract).

Component (A) is a copolymer component comprising a copolymer produced from propylene and an α -olefin other than propylene having not more than 8 carbon atoms with the proviso that propylene and ethylene are contained therein as essential components (p.2, paragraphs 18, 20, and 22). The resin films or sheets constituting the partition portion are peelable off from each other (see abstract). The component (A) has a content of α -olefin less than 20% and component (C) is 100% polypropylene, so the propylene content in whole polymers as a sum of the components (A) and (C) is within the range of 85 to 95% by weight. The melting point peak temperature is between 161°C (p.4, paragraph 51), which is not less than 160°C.

Kawamura fails to explicitly teach the amount of room-temperature xylene-insoluble and room temperature xylene-soluble components in the total sum of components (A) and (C), or the content of the α -olefin other than propylene in the room-temperature xylene-soluble component. However, Takayanagi et al teach that when the component containing the copolymer of propylene and α -olefin of a polymer-based resin composition, such as the composition of Kawamura, contains the xylene

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insolubles in an amount of not more than 20% by weight, the obtained composition tends to be deteriorated in transparency. One the other than, when the component contains the xylene insolubles in an amount of more than 70% by weight, the obtained composition tends to be deteriorated in flexibility. In addition, when the component contains xylene solubles in an amount of less than 10% by weight, the obtained composition tends to be insufficient in flexibility. On the other hand, when the component contains the xylene solubles in an amount of more than 60% by weight, the obtained composition tends to be deteriorated in heat resistance (p.2, paragraph 31). Takayanagi et al also teach that the xylene solubles contains the α -olefin other than propylene in an amount of not more than 20% by weight in order to prevent deterioration of transparency (p.2, paragraph 32). Kawamura et al teach the easily peelable film formed of the propylene composition is required to have excellent heat resistance, flexibility, and transparency (see abstract). One of ordinary skill in the art would have recognized that Kawamura et al and Takayanagi et al are analogous insofar as both references are concerned with the formation of a propylene-based resin composition having superior heat resistance, flexibility, and transparency.

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Therefore, it would have been obvious to one having ordinary skill in the art at the time Applicant's invention was made to select the xylene insoluble component in the amount of 20 to 70% by weight and the xylene soluble component in the amount of 10 to 60% by weight having a content of the α -olefin other than propylene of not more than 20% for the propylene-based composition of Kawamura, in order to form the composition having superior heat resistance, flexibility, and transparency, as taught by Takayanagi et al. Note the tensile stress at a yielding point is a latent property of the composition and would necessarily not be more than 15MPa because the composition taught by the combination of Kawamura and Takayanagi is the same composition claimed and the same composition must possess the same properties.

6. Claims 1-3, 5-7, and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawamura et al (US 2002/0009563 A1) in view of Cecchin et al (USPN 5,302,454).

Kawamura et al teach a multi-chamber container comprising a resin film or sheet formed into a bag shape by heat-sealing and having a partition formed therein (p.3, paragraph 32). The multi-chamber container includes a heat-sealed portion comprising a propylene-based resin composition (see abstract).

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The composition includes component (C) (representing the component (A) of the instant invention), and component (A) (representing the component (B) of the instant invention). The composition is formed by a second-stage polymerization because the composition is a mixture, of the two components that have each been polymerized. Component (C) is present in the composition between 15 and 85% by weight and component (A) is present in the composition between 15 and 85% by weight, based on a total weight of the components (p.2, paragraph 24). Component (C) is a homopolymer of propylene (see abstract). Component (A) is a copolymer component comprising a copolymer produced from propylene and an α -olefin other than propylene having not more than 8 carbon atoms with the proviso that propylene and ethylene are contained therein as essential components (p.2, paragraphs 18, 20, and 22). The resin films or sheets constituting the partition portion are peelable off from each other (see abstract). The component (A) has a content of α -olefin less than 20% and component (C) is 100% polypropylene, so the propylene content in whole polymers as a sum of the components (A) and (C) is within the range of 85 to 95% by weight. The melting point peak temperature is between 161°C (p.4, paragraph 51), which is not less than 160°C.

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Kawamura fails to explicitly teach the amount of room-temperature xylene-insoluble and room temperature xylene-soluble components in the total sum of components (A) and (C), or the content of the α -olefin other than propylene in the room-temperature xylene-soluble component. However, Cecchin et al teach that the component containing the copolymer of propylene and α -olefin of a polymer-based resin composition contains the xylene insolubles in an amount of 10 to 40 parts by weight and solubles in an amount of 30 to 60 parts by weight, in order to produce a polyolefin composition with the desired balance of elasto-plastic properties through polymerization processes (see abstract and col.1, 1.33-35). Cecchin et al also teach that the tensile stress is less than 15MPa and the melting point is greater than 160°C (Table 1B). Kawamura et al teach the easily peelable film formed of the propylene composition is required to have excellent heat resistance and flexibility (see abstract), which are known to one having ordinary skill in the art to be elasto-plastic properties. One of ordinary skill in the art would have recognized that Kawamura et al and Cecchin et al are analogous insofar as both references are concerned with the formation of a propylene-based resin composition having the benefits of both elastomers and thermoplastics such as heat resistance and flexibility.

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Therefore, it would have been obvious to one having ordinary skill in the art at the time Applicant's invention was made to select the xylene insoluble component in the amount of 10 to 40 parts by weight and the xylene soluble component in the amount of 30 to 60 parts by weight for the propylene-based composition of Kawamura, in order to form the composition having superior elasto-plastic properties such as flexibility and heat resistance, as taught by Cecchin et al.

Regarding claims 1, 6, and 10, Kawamura et al and Cecchin et al taken as a whole fail to teach that the room-temperature xylene-soluble component has a content of the α -olefin other than propylene of less than 20% by weight. Specifically Cecchin et al teach that the preferred amount of α -olefin is greater than 40% by weight. However, Kawamura et al teach that the total α -olefin content of the copolymer should be less than 20%, because greater amounts lead to decreased heat resistance, transparency, and increased peel strength at the partition walls. One of ordinary skill in the art would have recognized that the amount of overall α -olefin in the copolymer and therefore also the amount of α -olefin content in the xylene-soluble portion of the composition is a result effective variable and that depending on the intended end result of the final product.

Therefore, it would have been obvious to one having ordinary skill in the art at the time Applicant's invention was made to select the α -olefin content other than propylene in the xylene-soluble portion of the composition in an amount not more than 20%, because the amount is optimized depending on the intended end result of the product and Kawamura et al teach that in order to avoid decreasing heat resistance and transparency and increasing peel strength at the partition walls, the α -olefin content of the entire composition should be kept low which would also include the content within the xylene-soluble portion.

7. Claims 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawamura et al in view of Takayanagi et al as applied to claims 1 and 5 above, and further in view of Gustafsson et al (USPN 6,007,529).

Kawamura et al and Takayanagi et al taken as a whole teach all that is claimed in claims 1 and 5 as shown above, but fail to teach that the resin film includes three or more layers. However, Gustafsson et al teach that other layers are added in addition to the propylene-based resin composition layer, such as the one taught by Kawamura et al and Takayanagi et al, when forming a multi-chambered medical packaging container (col.6,

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1.54-57). Specifically, polypropylenes may have insufficient flexibility for an intended use and therefore is combined with a polymer having an elastic property (col.6, 1.65 - col.7, 1.5). A preferred polymer possessing an elastic property is a resin composition containing a propylene-based resin composition and a styrene-based elastomer (col.7, 1.6-8 and 1.31-35). Gustafsson et al also teach that other layers containing copolymers of propylene and ethylene are used in the formation of the container because of its transparency, flexibility, and high degree of compatibility with lipophilic fluids (col.8, 1.49-60). One of ordinary skill in the art would have recognized that resin film or sheets forming multi-chambered containers are formed having three or more layers with an innermost layer made of a propylene-based resin composition that is heat sealable for forming permanent and peelable heat seals, a neighboring layer comprising a propylene-based resin composition and a styrene-based elastomer, in order to provide additional elasticity to the sheet, and additional layers made of propylene polyethylene copolymer resin in order to provide additional transparency and high degree of compatibility to the packaged material such as lipophilic fluids, as taught by Gustafsson et al.

Therefore, it would have been obvious to one having ordinary skill in the art at the time Applicant's invention was

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made to the outer surface of the propylene-based resin composition of Kawamura et al and Takayanagi et al, an intermediate layer comprising the propylene-based resin composition and styrene-based elastomer, in order to provide the container with additional elasticity, and an outer layer comprising a propylene random copolymer in order to provide the container with additional transparency and compatibility with lipophilic fluids, as taught by Gustafsson et al.

8. Claims 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawamura et al in view of Cecchin et al as applied to claims 1 and 5 above, and further in view of Gustafsson et al (USPN 6,007,529).

Kawamura et al and Cecchin et al taken as a whole teach all that is claimed in claims 1 and 5 as shown above, but fail to teach that the resin film includes three or more layers. However, Gustafsson et al teach that other layers are added in addition to the propylene-based resin composition layer, such as the one taught by Kawamura et al and Cecchin et al, when forming a multi-chambered medical packaging container (col.6, 1.54-57). Specifically, polypropylenes may have insufficient flexibility for an intended use and therefore is combined with a polymer having an elastic property (col.6, 1.65 - col.7, 1.5). A

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preferred polymer possessing an elastic property is a resin composition containing a propylene-based resin composition and a styrene-based elastomer (col.7, 1.6-8 and 1.31-35). Gustafsson et al also teach that other layers containing copolymers of propylene and ethylene are used in the formation of the container because of its transparency, flexibility, and high degree of compatibility with lipophilic fluids (col.8, 1.49-60). One of ordinary skill in the art would have recognized that resin film or sheets forming multi-chambered containers are formed having three or more layers with an innermost layer made of a propylene-based resin composition that is heat sealable for forming permanent and peelable heat seals, a neighboring layer comprising a propylene-based resin composition and a styrene-based elastomer, in order to provide additional elasticity to the sheet, and additional layers made of propylene polyethylene copolymer resin in order to provide additional transparency and high degree of compatibility to the packaged material such as lipophilic fluids, as taught by Gustafsson et al.

Therefore, it would have been obvious to one having ordinary skill in the art at the time Applicant's invention was made to the outer surface of the propylene-based resin composition of Kawamura et al and Cecchin et al, an intermediate layer comprising the propylene-based resin composition and

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styrene-based elastomer, in order to provide the container with additional elasticity, and an outer layer comprising a propylene random copolymer in order to provide the container with additional transparency and compatibility with lipophilic fluids, as taught by Gustafsson et al.

9. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kawamura et al (US 2002/0009563 A1) in view of Gustafsson et al (USPN 6,007,529).

Kawamura et al teach all that is claimed in claim 9 as shown above, but fail to teach that the resin film includes three or more layers. However, Gustafsson et al teach that other layers are added in addition to the propylene-based resin composition layer, such as the one taught by Kawamura et al, when forming a multi-chambered medical packaging container (col.6, 1.54-57). Specifically, polypropylenes may have insufficient flexibility for an intended use and therefore is combined with a polymer having an elastic property (col.6, 1.65 - col.7, 1.5). A preferred polymer possessing an elastic property is a resin composition containing a propylene-based resin composition and a styrene-based elastomer (col.7, 1.6-8 and 1.31-35). Gustafsson et al also teach that other layers containing copolymers of propylene and ethylene are used in the

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formation of the container because of its transparency, flexibility, and high degree of compatibility with lipophilic fluids (col.8, 1.49-60). One of ordinary skill in the art would have recognized that resin film or sheets forming multi-chambered containers are formed having three or more layers with an innermost layer made of a propylene-based resin composition that is heat sealable for forming permanent and peelable heat seals, a neighboring layer comprising a propylene-based resin composition and a styrene-based elastomer, in order to provide additional elasticity to the sheet, and additional layers made of propylene polyethylene copolymer resin in order to provide additional transparency and high degree of compatibility to the packaged material such as lipophilic fluids, as taught by Gustafsson et al.

Therefore, it would have been obvious to one having ordinary skill in the art at the time Applicant's invention was made to the outer surface of the propylene-based resin composition of Kawamura et al, an intermediate layer comprising the propylene-based resin composition and styrene-based elastomer, in order to provide the container with additional elasticity, and an outer layer comprising a propylene random copolymer in order to provide the container with additional

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transparency and compatibility with lipophilic fluids, as taught by Gustafsson et al.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Takayanagi et al (USPN 6,294,611); Kawamura et al (US 2003/0124283 A1); Watanabe et al (USPN 5,478,617); Tanaka et al (USPN 5,501,887); Grunberger et al (USPN 5,837,369); Perdomi et al (USPN 6,010,772); Covezzi et al (USPN 6,296,548); Matsuda et al (USPN 4,186,240).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Bruenjes whose telephone number is 571-272-1489. The examiner can normally be reached on Monday thru Friday from 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher P Bruenjes
Examiner
Art Unit 1772
CPB
CPB
September 26, 2005

[Signature]
HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

9/28/05